1. **Phytosterols/phytostanols**

   a) **Opinion on a draft Commission Decision authorising the placing on the market of milk based beverages with added phytosterols under the Novel Food Regulation:**

   Some Member States pointed out that the product that was finally reviewed by EFSA seemed to be different materially from the one that had been the subject of the Belgian initial opinion and had been reviewed by the other Member States. There was a change in the starting materials, and different methods had been used for extraction of sterols and stanols.

   In addition, these Member States were unable to express an opinion on the acceptability of the product covered by the EFSA opinion. The use of the modified process in their view might raise new questions about the safety of this product in addition to those that might be asked about previously-assessed phytosterol products. It was also not clear to these Member States how EFSA had dealt with the objection that insufficient toxicology tests were conducted on the original product.

   Without access to the new data provided to EFSA, Member States were unable to judge whether their initial concerns on this application had been addressed and whether the EFSA Panel’s conclusions provided a suitable basis for authorisation of the revised product. EFSA had indicated that it could not publish the supplementary data, as appears to be required under Article 38(c) of the general food law regulation, since all dossiers were regarded as commercially confidential. The applicant had been reluctant to provide the dossier to Member States, although they had offered to discuss any concerns.

   It was agreed that the Commission would discuss with the Authority how it intends to handle data that are provided directly to EFSA in connection with its assessment of novel food applications, with respect both to making the data public and to making it available to competent authorities in the Member States.

   When the proposal would be re-submitted, it would be amended in order to clarify the scope of the authorisation in relation with the recent authorisations on which a favourable opinion was sought in December (the previous ones concerned only semi-skimmed milk based products).
b) Substantial equivalence and the authorization of food with added phytosterols/phytostanols

After four draft authorisation decisions had received a favourable opinion in December, several companies announced their intention to commercialise products on the basis of “substantial equivalence” with the products authorised.

The Commission, upon request by Member States, provided its view that the simplified procedure provided for in Article 5 of Regulation (EC) No 258/97 for products which are substantially equivalent to existing foods within the meaning of Article 3(4) could neither be used to extend the range of foods (vectors) that can be enriched with phytosterols/phytostanols nor could it be used to place on the market foods added with phytosterols/phytostanols meeting different specifications than those specified in an authorisation decision. In other terms, the simplified procedure could only be used where both the food (vector) to be enriched is the same, and the specifications of the phytosterols/phytostanols being added are the same as in the authorisation decision.

This interpretation seemed to be accepted and shared by a large majority of the Member States. However, some Member States preferred to reflect on it and confirm their agreement at the next meeting.

Answering a request from a Member States, the Commission further indicated that in the case of phytosterols/phytostanols, any notification under Article 5 of Regulation (EC) No 258/97 would have to be accompanied by an opinion delivered by the competent body of a Member States, as it was possible to bases substantial equivalence on scientific evidence available and generally recognized.

c) Reconsideration of the categories of foods to which phytosterols may be added in respect of two products (rye bread and low fat meat products)

At the request of Finland the Committee was invited to reconsider the applications of two Finnish companies (rye bread by Fazer, and low fat meat products by Pouttu). The purpose was not to challenge the merits of the objective criteria agreed at the November meeting of the Committee, but rather to question the narrow, if not incorrect application that had been made of these criteria. It was indeed suggested that if the criteria had been applied correctly, those products would have been considered as eligible for the addition of phytosterols/phytostanols.

There were mixed views within the Committee; indeed, there appeared to be a majority against reconsidering these two applications. The possibility of limiting the scope of such authorisations to the Finnish domestic market was briefly discussed and seemed to be attractive to some Member States, although it was clear that there were considerable doubts about the feasibility of this construction from a legal point of view.
The Commission indicated that it was itself in favour of reconsidering the authorization of these products and that it was likely that it would seek an opinion of the Committee on draft authorization decisions at the next meeting.

d) Nature of the authorisation Decisions (individual versus general)

The Commission reminded the Committee that the reason why the authorisation Decisions are addressed to the individual applicant and are not of a general nature are historical. On Member States’ request, the first Decision (Unilever) provided for monitoring measures and this could not have been done in a general Decision. However, this issue would certainly be re-examined within the revision of the Novel Food.

2. Crisis management plan

The draft general plan for food/feed crisis management was discussed in depth. The Commission explained that the plan will be adopted as a Commission decision. In accordance with the provisions of Regulation 178/2002, the plan is to be established by the Commission in close co-operation with the Member States and EFSA, but no comitology procedure is provided for. During the detailed discussion on the various chapters of the plan, no fundamental objections were raised. However, a series of requests for explanations and clarification were made. The main requests for amendments/clarification were to:

- clarify that since, generally speaking, risks can be managed by the existing tools situations which are to be considered a "crisis" are exceptional;
- make clear in the general plan that a problem involving only one single MS is not considered sufficient to trigger the setting up of the crisis unit;
- clarify better that the communication strategy takes into account the competence and responsibilities of the members of the crisis unit and of the Member States.

At the end of the discussion, the Member States expressed their general agreement to the plan, subject to the circulation of a version amended in the light of the discussion, with a deadline of 2 weeks for the Member States to check it.

3. Chicken with added water

The Commission presented a preliminary draft Communication, available in French only, on the addition of water to poultry meat. The prohibition of the addition of water in poultry products as a fraudulent practice was strongly supported by three Member States. Two Member States expressed disagreement with the approach. One Member State asked for a clear distinction between authorised and prohibited practices.

The Commission indicated that the matter would be further discussed at an expert meeting to be organized in March.
4. Miscellaneous

a) Italy – compulsory origin labelling of fresh milk

The Commission informed the Committee on recent developments (new draft text from Italy – reasoned opinion under Directive 98/34/EC - prolongation of the deadline for comments under Directive 2000/13/EC).

Member States did not express particular concerns about the mandatory labelling requirement, neither was there much support for a similar requirement at Community level.

b) Labelling of honey

Two delegations (FR and DE) asked for complementary information on the labelling of honey from different floral origin.

The Commission representative explained that an interpretative note of the Commission Legal Service is under preparation. While waiting for that interpretative note, the Commission representative reminded that during Council discussions on the honey Directive none of the Member States delegations had highlighted the question of labelling of honey from two floral origins. Therefore, at first sight, it appears that the Directive text would head for the valorisation of only one floral origin.